

Office of the Secretary, Education

§5b.9

not relevant or necessary to accomplish the Department function for which the record was provided or is maintained. In either case, the subject individual will be informed in writing of the correction, amendment, or deletion and, if accounting was made of prior disclosures of the record, all previous recipients of the record will be informed of the corrective action taken.

(d) If the responsible Department official does not agree that the record should be corrected or amended, the subject individual will be informed in writing of the refusal to correct or amend the record. He will also be informed that he may appeal the refusal to correct or amend his record §5b.8 of this part.

(e) Requests to correct or amend a record governed by the regulation of another government agency, *e.g.*, Office of Personnel Management, Federal Bureau of Investigation, will be forwarded to such government agency for processing and the subject individual will be informed in writing of the referral.

§5b.8 Appeals of refusals to correct or amend records.

(a) *Processing the appeal.* (1) A subject individual who disagrees with a refusal to correct or amend his record may appeal the refusal in writing. All appeals shall be made to the Secretary.

(2) An appeal will be completed within 30 working days from its receipt by the appeal authority; *except that*, the appeal authority may for good cause extend this period for an additional 30 days. Should the appeal period be extended, the subject individual appealing the refusal to correct or amend the record will be informed in writing of the extension and the circumstances of the delay. The subject individual's request to amend or correct the record, the responsible Department official's refusal to correct or amend, and any other pertinent material relating to the appeal will be reviewed. No hearing will be held.

(3) If the appeal authority agrees that the record subject to the appeal should be corrected or amended, the record will be amended and the subject individual will be informed in writing of the correction or amendment. Where

an accounting was made of prior disclosures of the record, all previous recipients of the record will be informed of the corrective action taken.

(4) If the appeal is denied, the subject individual will be informed in writing:

(i) Of the denial and the reasons for the denial;

(ii) That he has a right to seek judicial review of the denial; and,

(iii) That he may submit to the responsible Department official a concise statement of disagreement to be associated with the disputed record and disclosed whenever the record is disclosed.

(b) *Notation and disclosure of disputed records.* Whenever a subject individual submits a statement of disagreement to the responsible Department official in accordance with paragraph (a)(4)(iii) of this section, the record will be noted to indicate that it is disputed. In any subsequent disclosure, a copy of the subject individual's statement of disagreement, will be disclosed with the record. If the responsible Department official deems it appropriate, a concise statement of the appeal authority's reasons for denying the subject individual's appeal may also be disclosed with the record. While the subject individual will have access to this statement of reasons, such statement will not be subject to correction or amendment. Where an accounting was made of prior disclosures of the record, all previous recipients of the record will be provided a copy of the subject individual's statement of disagreement, as well as the statement, if any, of the appeal authority's reasons for denying the subject individual's appeal.

§5b.9 Disclosure of records.

(a) *Consent to disclosure by a subject individual.* (1) Except as provided in paragraph (b) of this section authorizing disclosures of records without consent, no disclosure of a record will be made without the consent of the subject individual. In each case the consent, whether obtained from the subject individual at the request of the Department or whether provided to the Department by the subject individual on his own initiative, shall be in writing. The consent shall specify the individual, organizational unit or class of individuals or organizational units to